

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
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**NOTES**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

**JOWELL C. BULLARD, NORRIS RAY  
TOLLERSON, JR., RANDY STOKES, JR.,  
DONNA DAVIS, ROBERT F. DEXTER, JR.,  
JOSHUA R. LUSTER, SCOTT RUSK,  
JEFFORY E. POOL, TYE A. WARD, JAMES  
DAVID SMITH, MICHAEL A. KING,  
DOMINGO MARQUEZ, STEPHEN A.  
WILSON, H. WAYNE BLACK, CHARLES  
DOUGLAS WALKER, GARY D. PHENIX  
SCOTT BEECHER HERRING, PAM J. HITT,  
SAMUEL RAY GIBSON, EUFEMIO JOE  
RUBALCABA, CHRISTOPHER L.  
SCHWARZ, STACY L. GRANT, HERBERT  
CHARLES CARR, CHRIS JENKINS, TODD  
FINLEY, KEVIN WAYNE OSBORNE, M.L.  
WITHERSPOON, ALVIN VIRGIL NEWTON,  
RODERICK J. UPTON, and KEVIN  
LANKFORD,**

**Plaintiffs,**

**V.**

**BABCOCK & WILCOX TECHNICAL  
SERVICES PANTEX, L.L.C.,**

**Defendant.**

**CIVIL ACTION NO. 2-07CV-049-J**

**AGREED AMENDED JUDGMENT**

PLAINTIFFS and BABCOCK & WILCOX TECHNICAL SERVICES PANTEX, L.L.C. (“DEFENDANT”) (collectively, the “Parties”) tried this case to the Court from August 12, 2008, to August 20, 2008. On June 17, 2009, the Court issued its MEMORANDUM OPINION AND ORDER and FINDINGS OF FACT AND CONCLUSIONS OF LAW. Consistent with that opinion, the Court entered Judgment on August 24, 2009 (the “Judgment”). Among other holdings in the Judgment, the Court held that DEFENDANT willfully misclassified the job

positions of Desk Lieutenant, Administrative Lieutenant, Curriculum Developer, and Fire Lieutenant as exempt from the overtime provisions of the Fair Labor Standards Act ("FLSA"). The Court therefore applied a three-year statute of limitations to FLSA claims of PLAINTIFFS who held those positions during the relevant time period.


DEFENDANT appealed to the Fifth Circuit solely on the issue of willfulness. On May 4, 2011, the Fifth Circuit vacated the Court's finding of willful violations and remanded the case to this Court for further proceedings consistent with the Fifth Circuit's ruling. Rather than going forward with remand proceedings, the Parties have agreed to amend the Judgment by stipulating and agreeing that (1) DEFENDANT did not willfully violate the FLSA and (2) PLAINTIFFS' claims for damages are limited by a two-year statute of limitations and shall be adjusted accordingly. Except as specifically stated herein, the Judgment shall otherwise remain unaltered by this Agreed Amended Judgment.

This Agreed Amended Judgment disposes of all controversies pending between the Parties in this case, CIVIL ACTION NO. 2-07CV-049-J. Therefore, no remand proceedings or any other proceedings are necessary and this case is fully and finally resolved.

Any and all relief not expressly granted herein is hereby DENIED.

It is SO ORDERED.

Signed this 7<sup>th</sup> day of June, 2011.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE

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**AGREED:**

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